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Zweigstelle
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Datum/Date

23.03.04

Zeichen/Ref./Réf.

LODM / P29438EP

Anmeldung Nr./Application No./Demande n°/Patent Nr./Patent No./Brevet n°.

03256869.3-2114-

Anmelder/Applicant/Demandeur/Patentinhaber/Proprietor/Titulaire

LODERS CROKLAAN B.V.

COMMUNICATION

The European Patent Office herewith transmits as an enclosure the European search report for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

☒ Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

The following specifications given by the applicant have been approved by the Search Division:

☒ abstract

☐ title

☐ The abstract was modified by the Search Division and the definitive text is attached to this communication.

The following figure will be published together with the abstract:

1

REFUND OF THE SEARCH FEE

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.





European Patent
Office

PARTIAL EUROPEAN SEARCH REPORT

Application Number

which under Rule 45 of the European Patent Convention shall be considered, for the purposes of subsequent proceedings, as the European search report

EP 03 25 6869

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	US 5 466 453 A (UCHIDA YUKIO ET AL) 14 November 1995 (1995-11-14) * column 1, line 17-29 * * column 2, line 34-65 * * column 4, line 45-56 * * column 5, line 2,20-62 * * claims 2,4; example 1 * Y * column 5, line 25-35 * ---	1,2,4-19 1,2,4-6 1,2,4-6	A23L1/30 A61K35/78 A23D7/005
Y	DATABASE WPI Derwent Publications Ltd., London, GB; AN 1997-272844 XP002272810 DONG Y, WANG S, ZHANG R: "Method for extracting raw pine needle juice" & CN 1 102 111 A (DONG Y), 3 May 1995 (1995-05-03) * abstract * ---	1,2,4-6	
A	US 6 190 680 B1 (YOSHINO HISAKO ET AL) 20 February 2001 (2001-02-20) * column 2, line 17-28 * * column 5, line 20-27 * --- -/--	1,2,4-19	TECHNICAL FIELDS SEARCHED (Int.Cl.7) A23L A61K A23D
INCOMPLETE SEARCH			
<p>The Search Division considers that the present application, or one or more of its claims, does/do not comply with the EPC to such an extent that a meaningful search into the state of the art cannot be carried out, or can only be carried out partially, for these claims.</p> <p>Claims searched completely :</p> <p>Claims searched incompletely :</p> <p>Claims not searched :</p> <p>Reason for the limitation of the search: see sheet C</p>			
Place of search MUNICH		Date of completion of the search 9 March 2004	Examiner Couzy, F
CATEGORY OF CITED DOCUMENTS X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document		T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons ----- & : member of the same patent family, corresponding document	

1
EPO FORM 1503 03.02 (P04C07)



DOCUMENTS CONSIDERED TO BE RELEVANT			CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	
A	LEE Y-H ET AL: "THE CHOLESTEROL-LOWERING EFFECTS OF THE EXTRACT FROM PINUS STOBUS IN CHICKENS" HANGUG NYENNYAN SIGRYAN HAGHOI JI - JOURNAL OF THE KOREAN SOCIETY OF FOOD AND NUTRITION, PUSAN, KR, vol. 25, no. 2, 1996, pages 188-192, XP001026939 ISSN: 0253-3154 * abstract *	1,2,4-19	
A	--- DATABASE WPI Derwent Publications Ltd., London, GB; AN 2002-203307 XP002272811 JEONG CB: "Production of steamed bread" & KR 2001 091 281 A (JEONG CB), 23 October 2001 (2001-10-23) * abstract *	1,2,4-19	TECHNICAL FIELDS SEARCHED (Int.Cl.7)
A,D	--- US 6 329 000 B1 (JI LING) 11 December 2001 (2001-12-11) * column 1, line 6-8 * * column 3, line 49-54 *	1,2,4-19	
A	--- EP 1 129 711 A (UNILEVER PLC ;UNILEVER NV (NL)) 5 September 2001 (2001-09-05) * column 4, line 5,6 * -----	1,2,4-19	



Claim(s) searched completely:
1-2,6

Claim(s) searched incompletely:
4-5,7-19

Claim(s) not searched:
3

Reason for the limitation of the search:

Present claim 3 relates to an extremely large number of possible compounds which are only defined by reference to how they are obtained. In view of the extremely large number of possibilities for such compounds and the impossibility to reliably determine under which of the A and B categories a compound falls, a lack of clarity within the meaning of Article 84 EPC arises to such an extent as to render a meaningful search of claim 3 impossible. Consequently, the search has been carried out for those parts of the application which do appear to be clear, namely the other claims. For claims dependent on claim 3, the subject-matter was searched ignoring any feature that might have been brought by claim 3 itself, thus these claims have been incompletely searched (claims 4-5 and 7-19).

ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.

EP 03 25 6869

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

09-03-2004

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 5466453	A	14-11-1995	CN 1081844 A ,B	16-02-1994
			DE 69312547 D1	04-09-1997
			DE 69312547 T2	08-01-1998
			EP 0565313 A2	13-10-1993
			HK 1000338 A1	27-02-1998
			JP 3203572 B2	27-08-2001
			JP 6009419 A	18-01-1994
			KR 268401 B1	16-10-2000
CN 1102111	A	03-05-1995	NONE	
US 6190680	B1	20-02-2001	JP 2000157168 A	13-06-2000
KR 2001091281	A	23-10-2001	NONE	
US 6329000	B1	11-12-2001	WO 9832455 A1	30-07-1998
			AU 734851 B2	21-06-2001
			AU 1588497 A	18-08-1998
			CA 2279261 A1	30-07-1998
			EP 1013278 A1	28-06-2000
			JP 2001508777 T	03-07-2001
EP 1129711	A	05-09-2001	EP 1129711 A2	05-09-2001
			AT 258435 T	15-02-2004
			DE 60101859 D1	04-03-2004



This application is covered by the extended European search report pilot project at present running within the European Patent Office, applied to all European patent applications filed as first filing and searched on or after 01.07.03. Under this project the EPO issues together with the search report an opinion on whether the application and the invention to which it relates meet the requirements of the EPC. This non-binding opinion is issued free of charge as a service. This opinion may be used as the basis for an informed decision as to whether it is desired to pursue the application further or not.

For further details of this pilot project, the applicant's attention is directed to the Official Journal edition 5/2003. If any further immediate questions or comments arise the EPO Customer Services: +31-70-340 4500 or +49-89-2399 2828 can be contacted.

The attached opinion reveals that the application or the invention to which it relates appear not to meet the requirements of the Convention (see comments on enclosed Form 2906).

If the applicant wishes to continue with this application the examination fee must be paid. Where appropriate amendments can be filed to address the objections raised in the opinion, thus shortening the overall procedure. If no amendments are filed, the opinion will be re-issued as the first official communication under Article 96(2) and Rule 51(2) EPC.

If the examination fee has already been paid and the right to the communication under Article 96(1) EPC has been waived for this application, the first official communication under Article 96(2) and Rule 51(2) EPC will be issued promptly.



The examination is being carried out on the **following application documents**:

Text for the Contracting States:

AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC NL PT RO SE SI
SK TR LI

Description, pages:

1-13 as originally filed

Claims, No.:

1-19 as originally filed

Drawings, sheets:

1 as originally filed

1. The following documents are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: US-A-5 466 453 (UCHIDA YUKIO ET AL) 14 November 1995 (1995-11-14)
- D2: DATABASE WPI Derwent Publications Ltd., London, GB; AN 1997-272844
XP002272810 DONG Y, WANG S, ZHANG R: 'Method for extracting raw pine
needle juice' & CN 1 102 111 A (DONG Y), 3 May 1995 (1995-05-03)
- D3: US-B1-6 190 680 (YOSHINO HISAKO ET AL) 20 February 2001 (2001-02-20)
- D4: LEE Y-H ET AL: 'THE CHOLESTEROL-LOWERING EFFECTS OF THE
EXTRACT FROM PINUS STOBUS IN CHICKENS' HANGUG NYENNYAN
SIGRYAN HAGHOI JI - JOURNAL OF THE KOREAN SOCIETY OF FOOD AND
NUTRITION, PUSAN, KR, vol. 25, no. 2, 1996, pages 188-192, XP001026939
ISSN: 0253-3154
- D5: DATABASE WPI Derwent Publications Ltd., London, GB; AN 2002-203307
XP002272811 JEONG CB: 'Production of steamed bread' & KR 2001 091 281 A
(JEONG CB), 23 October 2001 (2001-10-23)
- D6: US-B1-6 329 000 (JI LING) 11 December 2001 (2001-12-11)
- D7: EP-A-1 129 711 (UNILEVER PLC ;UNILEVER NV (NL)) 5 September 2001 (2001-
09-05)

2. Novelty and inventive step

2.1 Document D1 discloses the incorporation of extracts of pine material such as needles ("pine leaves"), obtained by e.g., extraction with water or water-soluble solvents (col.2 li.34-65, experiment 1), in a variety of foods (col.5 li.20-62), more specifically in mayonnaise and dressings (col.5 li.34-35). The resulting product exhibits health



promoting activities, including prevention of hypertension (col.1 li.26-32, col.4 li.62 - col.5 li.10). The application does not reveal any difficulty or unexpected effect linked to the incorporation of pine needle extract into the claimed specific food product. Thus, the whole subject-matter of claims 1-19 is entirely derivable by a man skilled in the art, and it is not immediately apparent whether the application contains any material that would meet the requirements of Art. 56 EPC.

2.2 While the presence of organic acids and minerals in the pine needle extract and therefore, in the claimed emulsion, is an inherent fact due to the composition of the extract, this is further suggested by D2 where the presence of minerals (trace elements) and vitamin C (ascorbic acid is an organic acid) in an aqueous pine needle extract is mentioned.

3. In light of the above, the Applicant is invited to further evaluate if and how the present invention provides a contribution over the prior art, and if appropriate to submit revised claims. The following deficiencies should then also be addressed:

3.1 The subject-matter of claim 3 is defined by reference to how the pine needle extract is obtained, without any indication about the nature of the compounds found therein. Not only is this an extremely unclear definition (Art. 84 EPC), but it also does not allow comparison to the prior art. Thus, claim 3 is not allowable (Art. 84 EPC) and claims dependent thereof should be revised accordingly.

3.2 To meet the requirements of Rule 27(1)(b) EPC, the documents D1 and D2 should also be identified in the description and the relevant background art disclosed therein should be briefly discussed.

4. When filing amendments and providing explanations, the following is also to be taken into account:

4.1 The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

Any information the applicant may wish to submit concerning the subject-matter of the invention, for example further details of its advantages or of the problem it solves, and for which there is no basis in the application as filed, should be confined to the letter of reply and not be incorporated into the application (Article 123(2) EPC and the Guidelines, C-VI, 5.7 et seq.).



Bescheid/Protokoll (Anlage)

Communication/Minutes (Annex)

Notification/Procès-verbal (Annexe)

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Anmelde-Nr.:
Application No.: 03 256 869.3
Demande n°:

4.2 In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, **the applicant is kindly requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based.** These indications should best be submitted in handwritten form on a copy of the relevant parts of the application as filed.